

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DANIEL O'NEILL,

Plaintiff,

v.

CIV 11-858 JB/GBW

LAWRENCE JARAMILLO, MANUEL
PACHECO, DWANE SANTISTEVAN,
& MICHAEL GATTI,

Defendants.

ORDER GRANTING LEAVE TO AMEND

THIS MATTER is before the Court on Plaintiff's Motion for a Court Order
Allowing the Plaintiff to have Communications with his Family ("Plaintiff's Motion").
Doc. 16. Because Plaintiff's Motion makes additional claims and seeks additional relief
based upon premises related to Plaintiff's Complaint, (*compare doc. 1 with doc. 16*), the
Court will construe the motion as one for leave to amend the Complaint. Plaintiff's
Motion, construed as such, will be granted.¹

Federal Rule of Civil Procedure 15 provides that "[a] party may amend its
pleading once as a matter of course" within twenty-one days of service of a responsive
pleading. Fed. R. Civ. P. 15(a)(1)(B). Plaintiff filed his Complaint on September 22, 2011
and no answers from any defendants are due until March 16, 2012. *See doc. 1; docs. 26,*

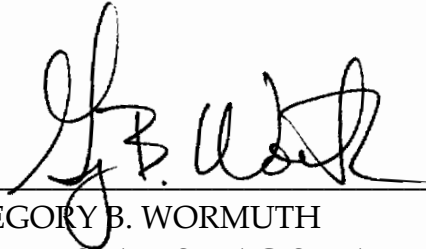
¹ Plaintiff has also filed a Request for Hearing. *Doc. 18.* This motion amounts to nothing more than a handwritten copy of a form motion and has none of the lines filled in. Because the Court finds no basis for a hearing and because Plaintiff himself offers no basis, the Motion is DENIED.

27. As such, no responsive pleadings have been filed. Therefore, Plaintiff's proposed amendment is within Rule 15's "matter of course" allowance. As this is Plaintiff's first amendment, the Court will grant Plaintiff's Motion.

Plaintiff is proceeding *pro se*, so his pleadings are construed liberally. It appears to the Court that the allegations contained within Plaintiff's Motion are meant to supplement, not replace, the allegations within Plaintiff's Complaint. Therefore, the Court will proceed as if Plaintiff had filed a single Amended Complaint which contains the allegations of the original Complaint and Plaintiff's Motion.

Wherefore, IT IS HEREBY ORDERED that Plaintiff's Motion, (*doc. 16*), is GRANTED.

IT IS FURTHER ORDERED that the allegations in Plaintiff's original Complaint and Plaintiff's Motion shall be read together and deemed Plaintiff's Amended Complaint.



GREGORY B. WORMUTH
UNITED STATES MAGISTRATE JUDGE